

AN ORDINANCE approving Contract #237-94, STREET LIGHTING & UNIT PRICE between T & F CONSTRUCTION CORP. OF INDIANA and the City of Fort Wayne, Indiana, in connection with the Board of Public Works.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

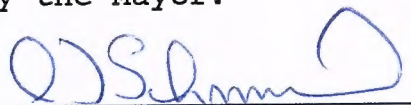
SECTION 1. That the Contract #237-94, STREET LIGHTING & UNIT PRICE by and between T & F CONSTRUCTION CORP. OF INDIANA and the City of Fort Wayne, Indiana, in connection with the Board of Public Works, is hereby ratified, and affirmed and approved in all respects, respectfully for:

1. RELAMPING UNIT-to consist of 1 person and bucket type line truck suitably equipped for relamping and maintenance work.
2. TWO MAINTENANCE CREWS-to consist of 3 or more member crew equipped to perform maintenance, repair and construction on underground and overhead street light system including a pickup truck, line truck with boom and earth auger and a bucket truck w/50 foot working height available for use at all times.
3. TROUBLE SHOOTING UNIT-to consist of 1 person and 1 truck which should be available at all times to handling accidents and emergencies.
4. UNIT PRICE ITEMS-Unit price list for street light construction;


involving a total cost of Seven Hundred Fifty Thousand and no/100 Dollars (\$750,000.00).

SECTION 2. Prior Approval has been requested from Common Council on NOVEMBER 22, 1994. Two copies of said Contract are on file with the Office of the City Clerk and made available for public inspection, according to law.

SECTION 3. That this Ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.


Council Member

APPROVED AS TO FORM
AND LEGALITY


J. Timothy McCaulay, City Attorney

237-94

THIS CONTRACT, made the 2 day of November, 1994, by and between T & F Construction Corporation whose address is P O Box 27 Hagerstown, Indiana 47346 hereinafter called "Contractor," and the City of Fort Wayne, Allen County, Indiana, a municipal corporation acting by and through its Board of Public Works hereinafter called the "owner;"

THAT the Contractor and the Owner for the consideration stated herein agree as follows:

SCOPE OF WORK

The Contractor shall and agrees to perform everything required to be performed and shall provide and furnish at its sole cost and expense all the labor, tools, materials, expendable equipment, transportation, services, bonds and insurance required to perform and to complete in a workmanlike manner all the work required for the maintenance of the street lighting system of the City of Fort Wayne in furnishing equipment and materials on a unit price hereinafter specified in the specifications and other contract documents which are hereby made a part of this contract; and the Contractor shall do everything required by this contract and the other documents constituted a part hereof.

This contract is included for bidders' reference and may be modified prior to award pending a review currently underway by the City's Legal Department.

ARTICLE II.

COMPONENT PARTS OF THIS CONTRACT

This contract consists of the following component parts all of which are as fully a part of this contract as if set out verbatim herein or if not attached as if hereto attached.

- 1.) Notice to Bidders.
- 2.) Instructions to Bidders
- 3.) Specifications
- 4.) Proposal Form.
- 5.) Form 96
- 6.) Statement of Experience and Electrical Maintenance.
- 7.) Performance Bond.
- 8.) This Contract.
- 9.) Insurance Certificates.
- 10.) EEO/AA Documents (2) Exhibit "D."

ARTICLE III.

THE CONTRACT PRICE

The Owner shall and agrees to pay to the Contractor for the performance of the aforementioned work as bid by the successful bidder as follows (the unit prices in the bid proposal consisting of twelve pages are hereby incorporated herein by reference):

ARTICLE IV.

TERM OF THE CONTRACT

This contract shall remain in force from the 1st day of December, 1994, until the 30th day of November, 1996, unless cancelled by the City for lack of performance, lack of cooperation, substandard workmanship, non-payment of creditors or for the convenience of the owner.

ARTICLE V.

INSURANCE AND INDEMNIFICATION

The Contractor agrees to provide workers' compensation insurance and public liability and property damage insurance under the terms and conditions set forth in the General Specifications and Covenants and agrees to hold the Owner harmless from all suits and damages, as more specifically set out and provided in said General Specifications.

ARTICLE VI.

ASSIGNMENT OF CONTRACT

It is agreed that the Contractor shall not assign or transfer this contract or sublet any part of the work empowered in it, except with the written consent of Owner.

ARTICLE VII.

APPROVAL OF CONTRACT

This contract although executed on behalf of the owner by its Mayor and Board of Public Works shall not be binding or obligatory upon the Owner unless and until it shall have been first approved by the Common Council of the City of Fort Wayne and should the Common Council of the City fail to approve the same within thirty (30) days after the date hereof, this contract shall become and be wholly void.

To each of the conditions and stipulations of this contract, the undersigned for itself binds itself and its successors and assigns.

IN WITNESS WHEREOF, we the foregoing named parties hereunto have set our hands and seals on the day and year first above written.

CONTRACTOR

BY: J.L. Taber PRES.

CITY OF FORT WAYNE INDIANA

BY: L.H.L.

Paul Helmke, Mayor

BOARD OF PUBLIC WORKS

BY: Linda Buskirk

Linda Buskirk
Director of Public Works

BY: C. James Owen

C. James Owen
Member

BY: _____

Terrance P. McCaffrey
Member

BY: Terrance P. McCaffrey

ATTESTED BY: Patricia J. Crick

Patricia Crick
Clerk to the Board of
Public Works

APPROVED AS TO FORM
AND LEGALITY

R. David Boyer, City Attorney

Adopted This 2 Day of November 1994

E.B.E. RIDER

THIS AGREEMENT made and entered into by and between the CITY OF FORT WAYNE, hereinafter referred to as "Owner", and T & F Construction Corp., hereinafter referred to as "Contractor",

WITNESSETH:

WHEREAS, Contractor is the apparent low bidder on construction project commonly referred to as the Street Light Maintenance Contract which project was bid under Resolution Number 237-94; and

WHEREAS, Contractor agrees that the goal for qualified Emerging Business Enterprises, hereinafter sometimes referred to as "E.B.E.'s" as subcontractors on this project is 0% of the contract amount; and

WHEREAS, Owner has, pursuant to Executive Order 90-01 (as amended 12/19/91), adopted a goal of at least 10% of the contract amount to Emerging Business Enterprises as defined under said Executive Order; and

WHEREAS, said Executive Order states:

"Section 2, Paragraph C Each contractor shall be required to make a good faith effort to subcontract 0% of the contract amount to Emerging Business Enterprises on each construction contract he/she is awarded. In the event a contractor is unable to subcontract 0% of the contract amount or secure the services of an Emerging Business Enterprise, he/she will be required to submit a completed Request for Waiver form on which he/she will provide a written description of the efforts taken to comply with the participation goals."

NOW, THEREFORE, in consideration of the foregoing and of the mutual agreements hereinafter contained, the sufficiency of which consideration is hereby acknowledged, the parties hereto agree as follows:

1. **Conditional Award** Subject to approval by the Common Council of the City of Fort Wayne as stipulated in the construction contract to which this Rider is attached, Owner awards the construction contract to the Contractor.

2. **E.B.E. Retainage Requirements** If the contractor is in compliance with the provisions of the construction contract to which this Rider is attached, the Owner will make payments for such work performed and completed. However, in any such case, the Owner will retain ten percent (10%) of the total amount owing to insure satisfactory completion of the contract and to insure contractor's compliance with this E.B.E. Rider. Upon final inspection and acceptance of the work, and determination by the Fort Wayne Board of Public Works that the contractor has made a good faith effort to subcontract 0 % of the contract amount to emerging business enterprises, the contractor will be paid in full. In the event there is a determination that good faith compliance with this E.B.E. Rider has not occurred, appropriate reduction in the final payment pursuant to paragraph six (6) of the E.B.E. Rider will be made.

If the contract is in excess of \$100,000, the contract will be subject to the standard Board of Public Works escrow agreement. However, payments to the CONTRACTOR are not to exceed 90% of the total contract amount until the OWNER has verified that the CONTRACTOR has made good faith efforts to attain the E.B.E. goal stipulated in this E.B.E. Rider. Payment of the final 10% of the total contract amount will be dependent upon good faith efforts to comply with this E.B.E. Rider, and subject to reduction in the event of non-compliance as provided in paragraph six (6) of this E.B.E. Rider.

3. **Request for Waiver** If at the time final payment application is made, contractor has not attained the 0 % E.B.E. goal, contractor shall file with the final payment application a "Request for Waiver." Said Request for Waiver shall contain a written description of the efforts taken by Contractor to attain the 0 % E.B.E. goal.

4. **Determination of Waiver Requests** The Contract Compliance Department of the City of Fort Wayne shall examine all Requests for Waiver to determine if Contractor's efforts constitute good faith efforts to attain such goal and shall submit recommendations concerning said Requests for Waiver for the final determination of the Board of Public Works of the City of Fort Wayne.

5. **Good Faith Per Se** In any case, a Contractor shall be deemed to have made good faith efforts at compliance where E.B.E.'s have been subcontracted for every sub-contract for which there are qualified E.B.E.'s available.

6. Consequence of Noncompliance In the event the Board of Public Works approves a recommendation that contractor failed to make good faith efforts at compliance, the contract shall be reduced by the amount calculated as the difference between 0 % and the percentage level met. Said amount shall be added to the City of Fort Wayne E.B.E. Bond Guarantee Fund and contractor agrees to accept the reduced amount as full payment under the terms of his/her contract.

7. Waiver Approved In the event the Board of Public Works determines that a good faith effort to comply with this E.B.E. Rider has been made, the contract shall not be reduced and the balance owing to the contractor shall be paid in full.

IN WITNESS WHEREOF, the parties have executed the E.B.E. Rider this 2 day of November , 1994.

BY:

J. L. Taber PRES.
Contractor

BY:

Board of Public Works

Linda Buskirk
Linda Buskirk

C. James Owen
C. James Owen

Terrance P. McCaffrey
Terrance P. McCaffrey

ATTEST:

Patricia J. Crick
Patricia J. Crick, Clerk

EMERGING BUSINESS ENTERPRISE (EBE) COMMITMENT FORM

THE FOLLOWING IS THE UNDERSIGNED'S COMMITMENT TO THE EBE GOALS OF THE CITY FOR WORK DONE PURSUANT TO THIS CONTRACT:

A. _____ The undersigned firm certifies that it is an EBE Contractor.

For EBE specify percentage of the economically disadvantaged individual's ownership _____%

B. _____ The undersigned certifies that it and _____ firm (EBE) have entered a joint venture to perform this contract.

C. XXX The undersigned commits 10 % of the total bid price as a subcontract to Emerging Business Enterprise participation. The EBE firms, which are proposed as subcontractors, are the following:

	NAME OF FIRM	ADDRESS	TYPE OF WORK SUBCONTRACTED	% TO BE
1.	Circle S Corporation	1301 Goshen Rd Ft. Wayne, IN	Eqpt Sales & Service	2%
2.	Harlow Enterprises, Inc.	10611 Indianapolis Ft. Wayne, IN	Seeding & Restoration	8%
3.				

D. Complete (1.) below, and a Request for Waiver form if the participation goal of 10% for EBES is not to be met.

1. My Company will not meet the participation goals for the following reasons:

(Attach additional sheets as necessary.)

Contractor: T & F Construction Corp. of
Indiana

By: J. L. Taber
J. L. Taber

Its: President

Contractor: _____

By: _____

Its: _____

Read the first time in full and on motion by Schmidt, seconded by _____, and duly adopted, read the second time by title and referred to the Committee on Finance (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Common Council Conference Room 128, City-County Building, Fort Wayne, Indiana, on _____, the _____ day of _____, 19____, at _____ o'clock _____ M., E.S.T.

DATED: 11-22-94

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Schmidt, seconded by _____, and duly adopted, placed on its passage. PASSED ~~LOST~~ by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT
TOTAL VOTES	<u>7</u>			<u>2</u>
BRADBURY	<u>✓</u>			
EDMONDS				<u>✓</u>
GIAQUINTA	<u>✓</u>			
HENRY				<u>✓</u>
LONG	<u>✓</u>			
LUNSEY	<u>✓</u>			
RAVINE	<u>✓</u>			
SCHMIDT	<u>✓</u>			
TALARICO	<u>✓</u>			

DATED: 12-13-94

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ANNEXATION) _____ (APPROPRIATION) _____ (GENERAL) _____ (SPECIAL) _____ (ZONING) _____ ORDINANCE RESOLUTION NO. S-88-94 on the 13th day of December, 1994

ATTEST:
Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

(SEAL)
Rebecca Prairie
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 14th day of December, 1994, at the hour of 10:30 o'clock A. M., E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 14th day of December, 1994, at the hour of 5:00 o'clock P. M., E.S.T.

Paul Helmke
PAUL HELMKE, MAYOR

Admn. Appr.

TITLE OF ORDINANCE: Contract 237-94, Street Lighting Maintenance & Unit Price

DEPARTMENT REQUESTING ORDINANCE: Board of Public Works

SYNOPSIS OF ORDINANCE: Contract 237-94, is for the following:

1. RELAMPING UNIT - to consist of 1 person and bucket type line truck suitably equipped for relamping and maintenance work. 2. TWO MAINTENANCE CREWS - to consist of 3 or more member crew equipped to perform maintenance, repair and construction on underground and overhead street light system including a pickup truck, line truck with boom and earth auger and a bucket truck w/50 foot working height available for use at all times. 3. TROUBLE SHOOTING UNIT - to consist of 1 person and 1 truck which should be available at all times to handling accidents and emergencies. 4. UNIT PRICE ITEMS - Unit price list for street light construction. T & F Construction Corporation of Indiana is the contractor. PRIOR APPROVAL IS BEING REQUESTED 11/22/94

EFFECT OF PASSAGE: Maintenance of City Street Lights

EFFECT OF NON PASSAGE:

MONEY INVOLVED (DIRECT COSTS, EXPENDITURE, SAVINGS) Street Light Engineering has appropriated \$750,000 in the Street Lighting Budget for 1995 to cover this expense.
ASSIGNED TO COMMITTEE:

J-94-11-11

BILL NO. S-94-11-11

REPORT OF THE COMMITTEE ON
FINANCE
CLETUS R. EDMONDS - DONALD J. SCHMIDT - CO-CHAIR
ARCHIE L. LUNSEY
DAVID C. LONG

WE, YOUR COMMITTEE ON FINANCE TO WHOM WAS

REFERRED AN (ORDINANCE) (~~RESOLUTION~~) approving contract #237-94,
STREET LIGHTING & UNIT PRICE between T & F CONSTRUCTION CORP. OF INDIANA
and the City of Fort Wayne, Indiana, in connection with the Board of
Public Works

HAVE HAD SAID (ORDINANCE) (~~RESOLUTION~~) UNDER CONSIDERATION
AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID
(ORDINANCE) (~~RESOLUTION~~)

DO PASS

DO NOT PASS

ABSTAIN

NO REC

David C. Long
Donald J. Schmidt
Cletus R. Edmonds

DATED: *12-14-94*

Sandra E. Kennedy
City Clerk